

Application Serial No.: 10/694,875
Reply to Office Action dated January 31, 2005, and
Advisory Action dated April 26, 2005

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

The Applicants request that the Amendment After Final submitted on April 18, 2005, not be entered. But rather, the Applicants respectfully request entry and consideration of the present Amendment.

Claims 1-14 and 17-35 are presently active in this case, Claims 1, 8, and 17 having been amended and Claims 30-35 having been added by way of the present Amendment.

Claims 22-29 have been allowed.

Claims 18-20 were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 8 has been rewritten in independent form including all of the limitations recited in base Claim 1. Accordingly, Claim 8 is in condition for allowance. Claims 9 and 10, which depend from Claim 8, are in condition for allowance as being dependent upon an allowable claim.

No new matter has been entered by the amendments set forth herein. Support for the amendment can be found throughout the specification, for example, on page 21 of the written description and the various figures provided in the application.

In the outstanding Official Action, Claims 1-7, 14, and 18-21 were rejected under 35 U.S.C. 102(b) as being anticipated by Sawa (JP 10-250640). Claims 11-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sawa in view of Ito et al. (U.S. Patent No. 6,644,700). For the reasons discussed below, the Applicants request the withdrawal of the art rejections.

In the Office Action, the Sawa reference is indicated as anticipating independent

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Claim 1. The Applicants note that a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As will be demonstrated below, the Sawa reference clearly does not meet each and every limitation of amended independent Claim 1.

Claim 1 of the present application recites a spoiler configured to be mounted on a bumper of a vehicle. The spoiler is recited as comprising, among other features, a spoiler main body section having a substantially constant cross-sectional profile along a length thereof, a plurality of mount sections each formed on a back of the spoiler main body section integrally therewith, and a plurality of fixing sections integrally formed on at least one of an upper side and a lower side of the plurality of mount sections. The Applicants submit that the Sawa reference does not disclose all of the limitations expressly recited in Claim 1 of the present application.

The Applicants note that the Examiner has not provided an English language translation of the Sawa reference being used against the claims of the present application.

The Sawa reference appears to depict a front body panel (1) of a vehicle. A secondary panel (2) is depicted that is mounted to the front body panel (1) using structure (24), which is attached to a rear of the secondary panel (2), and a clip (3), which attaches to the structure (24). The structure (24) and the clip (3) extend through a hole in the front body panel (1) and cooperate to attach the secondary panel (2) to the front body panel (1). The structure (24) includes two protrusions (241) on either side thereof that are used to help attach the structure (24)(and the secondary panel (2) attached thereto) to the front body panel (1).

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The secondary panel (2) of the Sawa et al. reference, as depicted in Figures 1 and 5 thereof, is clearly not a spoiler main body section “having a substantially constant cross-sectional profile along a length thereof,” as recited in Claim 1 of the present application. The secondary panel (2) of the Sawa reference is depicted with a shape that is clearly not constant along a length thereof. The structure of the main body section of the present application is clearly distinguishable from the structure of the secondary panel depicted in the Sawa reference. Thus, the Applicants submit that the Sawa et al. reference does not anticipate the invention recited in Claim 1 of the present application.

Accordingly, the Applicants respectfully request the withdrawal of the anticipation rejection of Claim 1.

Additionally, the Applicants submit that the feature (3) depicted in the Sawa et al. reference is not integrally formed on the structure (24) or the secondary panel (2). Accordingly, the Applicants submit that feature (3) of the Sawa reference does not anticipate the fixing sections of Claim 1 of the present application.

Claims 2-7, 11-14, 19, 20, and 30-32 are considered allowable for the reasons advanced for Claim 1 from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of Claim 1.

The Applicants note that independent Claim 17 is not expressly rejected in the Official Action dated January 31, 2005. Accordingly, the Applicants submit that they have not been afforded the opportunity to fully respond to such a rejection, if such a rejection was intended in the Official Action. Accordingly, the Applicants respectfully request the

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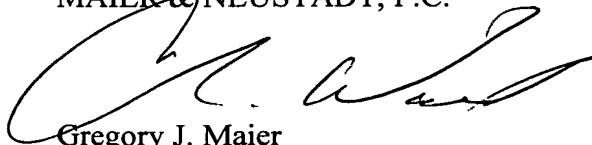
withdrawal of the finality of the outstanding Official Action and the issuance of a new action on the merits that addresses this issue.

The Applicants note that Claim 17 includes the limitation of a spoiler main body section having a substantially constant cross-sectional profile along a length thereof, a plurality of mount sections each formed on a back of the spoiler main body section integrally therewith, and a plurality of fixing sections integrally formed on at least one of an upper side and a lower side of the plurality of mount sections. Accordingly, the Applicants submit that Claim 17, and Claims 18, 21, and 33-35 which depend therefrom, are allowable for the reasons discussed above with respect to Claim 1.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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